

Application No.: 09/919,262

Docket No.: HO-P01776US1

REMARKS

Claims 1, 3, 5-15, 20-25, 27, 33, 35 and 36 are pending in the application. Claims 18, 21, 22, 24, 33 and 36 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bridges (U.S. Patent No. 5, 236,430A) (incorporating references U.S. 3,860,003 (Buell '003) and U.S. 4,081,301 (Buell '301)). Further, claims 1, 3, 5, 7-15, 25, 27, 28, and 30-32 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious in view of Bridges, incorporating by reference Buell '003 and Buell '301. Applicants traverse each of the above claim rejections.

Claim 1 as amended recites a disposable absorbent garment having, among other elements, an ear portion including a layered section. The recited layered section has an outer material layer having an inside surface and an outside surface, wherein the outside surface has a decorative or instructional display thereon. Further, the layered section has an elastic stretchable, non-permanently elongated member that is extendible between a contracted configuration and an extended, non-permanently elongated configuration. The inside surface is secured to a corresponding surface of the stretchable member when the stretchable member is disposed in an extended configuration and the outside surface is disposed in a substantially planar configuration wherein the display is observable thereon. Further, the outer material layer is subsequently contractible then extendible with the stretchable member in such that the outside surface is returnable to the substantially planar configuration without permanent elongation of the outer material layer and the stretchable non-permanently elongated member.

The focus of the rejection, and the present Response and argument, is the teaching provided by the Buell '003 reference, and in the alternative, of the Buell '301 reference. Applicants admit that the Buell '003 reference discusses an elastic member that can be "operatively associated with the side flap and in elastically contractible condition by stretching the elastic member to a stretch condition and fixing it to the side flap while the side flap is in an uncontracted or stretched condition." The discussion and the teaching of the Buell '003 reference does not go beyond this, however.

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Applicants submit that neither of the Buell references nor any of the other cited references teaches that the elastic is secured in an extended configuration wherein the outside surface is disposed in a substantially planar configuration, and so that the outside surface is later returnable to this same substantially planar configuration without permanent elongation. Further, as provided in amended claim 1, claim 1 requires that the substantially planar configuration of the outside surface provides an outside surface whereon a decorative or instructional display is observable thereon. Amended claim 1 also requires that the display on the outside surface is unobscured and observable when the outside surface is disposed in its substantially planar configuration and the display is substantially less observable and less obscured when the stretchable member is disposed in the contracted configuration.

In summary, none of the cited references teaches or suggests an outside surface of the elastic that is secured to or with an outer material layer, wherein the outside surface is disposed in a specific substantially planar configuration into which the outside surface is returnable. Secondly, none of the cited references, individually or in any combination, teaches or suggests such a layered section, including an outside surface of the outer material layer whereon a decorative or instructional display is provided. Thirdly, none of the cited references, individually or in any combination, teaches or suggests such an elastic and outer material layer configuration, wherein the substantially planar configuration corresponds to a condition of the display in which the display is unobscured and observable.

Accordingly, independent claim 1 and claims dependent from claim 1 are patentable over the cited prior art and in condition for allowance. Similarly, independent claim 18 (a method claim), independent claim 25, independent claim 33 (also a method claim), and each of the claims dependent from any of these claims are also in condition for allowance.

Applicants further note that independent claim 25 recites a similar disposable absorbent garment wherein the substantially planar configuration is further recited as substantially corresponding with the configuration taken on by the outside surface when the garment is worn, and such that the display is substantially observable thereon. This further highlights the structural distinction of the claimed invention from the cited prior art.

None of the references, individually or in any combination, teach or suggest an ear portion having the recited elastic properties.

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Furthermore, none of the references, individually or in any combination, do not teach or suggest such an elastic, layered construction having the recited stretchable properties.

Attached hereto is a version of the pending claims after the current amendment. The attached page is captioned "Version with currently pending claims."

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 06-2375, under Order No. HO-P01776US1. A duplicate copy of this paper is enclosed. If a Petition is required for proper submission of this Response, Applicant hereby provides said Petition and authorization of any filing or petitioner fee.

The undersigned is available for consultation if the Examiner believes such consultation will help resolve any outstanding issue or otherwise expedite the prosecution of this application.

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Respectfully submitted,

By 

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